

**EXHIBIT B**



**U.S. Department of Justice**

Environment and Natural Resources Division

wdh

90-8-6-05041

*Wildlife and Marine Resources Section  
P.O. Box 7369  
Ben Franklin Station  
Washington, DC 20044-7369*

*Telephone (202) 305-0213  
Facsimile (202) 305-0275*

March 30, 2004

**Via Facsimile and U.S. Mail**

Patti Goldman  
Earthjustice Legal Defense Fund, Inc.  
203 Hodge Building  
705 Second Ave.  
Seattle, WA 98104-1711

Re: Washington Toxics Coalition et al v. EPA, No. 01-0132 (W.D. Wash.)

Dear Patti:

This letter is in response to your letter of March 29, 2004, and the two points raised therein.

The Federal Register notice regarding point of sale notification fully satisfies EPA's obligations under the court's order. The language used in that notice requesting that the point of sale notification be provided by certain entities to "Certified Applicators certified in any category that would permit the applicator to apply pesticides in parks, golf courses, and housing areas in the Urban Areas," tracks the language of the court's order verbatim. See Order of January 22, 2004 at 11. We are at a loss to understand how language incorporating and tracking the very language used by the court in its order fails to comply with that order. Your letter does not explain what provision of the court's order by which EPA has allegedly failed to abide. If plaintiffs believe EPA has failed to abide by the court's order, we would ask that you identify where those terms appear in the order and provide an explanation of how EPA has failed to meet those terms.

As discussed in the status report, although neither required to do so as a result of the court's orders or this litigation, EPA is nonetheless working to help the public and regulated community understand the geographic areas affected by the court's order. There is no requirement that the EPA include plaintiffs in what is an inherently discretionary action by a federal regulatory agency to better inform the public and regulated community. Accordingly, EPA declines plaintiffs' request to be included in this voluntary educational effort by EPA.

Sincerely,

A handwritten signature in cursive script, reading "Wayne Hettenbach".

Wayne Hettenbach  
Trial Attorney  
(202) 305-0213

cc: Mark Dyner